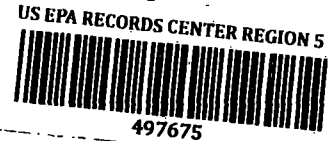




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590



REPLY TO THE ATTENTION OF:

**MAR 18 2003**

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

La Salle State Bank, Trustee  
Duncan Realty Trust  
c/o John S. Duncan, Esq.  
Herbolsheimer, Lannon, Henson, Duncan and Regan, PC  
State Bank Building  
654 First Street  
Suite 400  
La Salle, Illinois 61301

RE: Old La Salle Dump Site, La Salle County, Illinois  
Request for More Complete Response to Information Request  
Issued July 15, 2002

Dear Mr. Duncan:

Thank you for your response on behalf of La Salle State Bank to the Information Request issued by U.S. EPA on July 15, 2002 (July 15 Information Request). Please be advised, however, that U.S. EPA considers that response to be inadequate because it was incomplete in certain respects. This letter requests a more complete response.

**A. Background**

The United States Environmental Protection Agency (U.S. EPA) issued the July 15 Information Request to La Salle State Bank, as Trustee for the Duncan Realty Trust, pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended, 42 U.S.C. Section 9604(e). You replied on behalf of La Salle State Bank by letter dated July 29, 2002, enclosing a copy of the Trust Agreement and asking certain questions about the information request. By letter sent by certified mail on October 10, 2002, and signed by T. Leverett Nelson, the Agency renewed its request that La Salle State Bank provide responses to each of the questions contained in the July 15 Information Request, and extended the response deadline to 30 days from the date the letter was received, or November 20, 2002. By letter dated December 3, 2002, you submitted La Salle State Bank's response to the July 15 Information Request.

**B. Request for More Complete Response to July 15 Information Request**

La Salle State Bank has not provided adequate information regarding the following requests included in the July 15 Information Request:

1. Question 9 asks for the name and address of each current beneficiary of the Trust. La Salle State Bank's response did not include this information, but indicated that it would be provided under separate cover at a later date. No such information has been provided. Please provide a list of the names and addresses of each current beneficiary.
2. Question 14 asks for copies of all documents relating in any way to the operation of a dump on the site property. La Salle State Bank's response does not mention documents. Please provide copies of such documents or confirm that neither La Salle State Bank, nor its employees, agents, contractors, or attorneys, possess any such documents.
3. Question 15 asks La Salle State Bank to list, describe and state the value of all current assets and liabilities of the Trust. La Salle State Bank's response states that the Trust currently holds title to 200 acres of farmland, but doesn't state the value of the land. Please state the value of the 200 acres of farmland. Please state whether there are any other assets currently held by the Trust or liabilities to which the Trust is subject, and if yes, please state the value of such additional assets or the magnitude of such liabilities.
4. La Salle State Bank's response to Item 16 of the request states that La Salle State Bank sold 20 acres of farmland that had been held in the Trust. Please provide the information requested in questions 16a - 16f with regard to this transaction. Please state whether this is the only distribution, sale, or transfer of title, possession, or ownership of property that was subject to the Trust. If the answer is no, please answer the questions in 16a - 16f with respect to each such additional transaction.

Please provide the information requested above immediately to:

U.S. Environmental Protection Agency  
Deena Sheppard-Johnson, SR-6J  
Remedial Enforcement Support Section  
77 West Jackson Blvd.  
Chicago, Illinois 60604

Continued failure to provide complete responses to the questions in the first information request, or to adequately justify such failure to respond, may subject La Salle State Bank to an enforcement action seeking to compel compliance and collect penalties of up to \$27,500 per day of noncompliance pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. Section 9604(e)(5). We have enclosed a copy of the July 15 Information Request for your reference.

You may consider some or all of the information that U.S. EPA is requesting above to be confidential. Under CERCLA you may not withhold information on that basis, but you may ask U.S. EPA to treat the information as confidential. To request that the Agency treat your information as confidential, you must follow the procedures outlined in Attachment 5 of the July 15 Information Request, including the requirement that you support your claim for confidentiality.

This request for a more complete response is not subject to the approval requirements of the Paperwork reduction Act of 1980, 44 U.S.C. Section 3501 et seq.

The U.S. EPA has the authority to use the information that it requests in an administrative, civil or criminal action.

If you have any legal questions concerning this letter, please call Terry Branigan, Associate Regional Counsel, at (312) 353-4737. If you have technical questions about this site, please call Giang-Van Nguyen at (312) 886-6726. Address all other questions to Deena Sheppard-Johnson, Enforcement Specialist at (312) 886-7048.

We appreciate your assistance and look forward to your prompt response to this letter.

Sincerely,



T. Leverett Nelson, Chief  
Section III, Multi-Media Branch I  
Office of Regional Counsel

Encs.

bcc:

Giang-van Nguyen, SR-6J

Deena Sheppard-Johnson, SR-6J

Terry Branigan, C-14J



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 15 2002

COPY

REPLY TO THE ATTENTION OF

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

**SR-6J**

LaSalle State Bank, Trustee  
Duncan Realty Trust  
654 First St.  
LaSalle, IL 61301

Re: Request for Information Pursuant to Section 104 of CERCLA  
for Old LaSalle Dump Site in LaSalle County, Illinois

Dear Sir or Madam:

This letter seeks your cooperation in providing information and documents relating to the contamination of the Old LaSalle Dump Superfund Site in LaSalle County, Illinois. A Superfund site is a site contaminated with hazardous substances that may present a threat to human health or the environment.

The United States Environmental Protection Agency (U.S. EPA or Agency) is investigating the release or threat of release of hazardous substances, pollutants or contaminants at the Old LaSalle Dump Site and the effects of these substances on the environment and public health. In addition, U.S. EPA is seeking to identify parties that contributed to contamination at the site, parties that own the site, and the ability of parties to pay the costs of investigation and clean-up. The U.S. EPA believes that you possess information which may assist the Agency in its investigation of the site.

We encourage you to give this matter your immediate attention. Please provide a complete and truthful response to this Information Request and its questions in Attachment 2 within 30 days of your receipt of this letter. Instructions to guide you in the preparation of your response are in Attachment 3. Definitions of the terms used in this Information Request and in the questions are in Attachment 4.

You may consider some or all of the information that U.S. EPA is requesting to be confidential. Under CERCLA you may not withhold information on that basis, but you may ask U.S. EPA to treat the information as confidential. To request that the Agency treat your information as confidential, you must follow the procedures outlined in Attachment 5, including the requirement that you support your claim for confidentiality.

We make this request under the federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., commonly referred to as CERCLA or Superfund). The Superfund law gives U.S. EPA the authority to assess the threats to human health and the environment posed by contaminated sites and to cleanup those sites. Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604 (e)(2), the U.S. EPA has information-gathering authority that allows the Agency to require persons and corporations to furnish information or documents. Attachment 6 is a summary of the legal authority.

Compliance with this Information Request is mandatory. The Superfund statute provides that failure to answer the questions fully and truthfully, and within the prescribed time frame, can result in an enforcement action and penalties. Other statutes provide that the submission of false, fictitious or fraudulent statements or misrepresentations can result in sanctions.

The U.S. EPA has the authority to use the information that it requests in an administrative, civil or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3501 et seq.

Return your response to U.S. EPA within 30 days to:

U.S. Environmental Protection Agency  
Deena Sheppard-Johnson, SR-6J  
Remedial Enforcement Support Section  
77 West Jackson Blvd.  
Chicago, Illinois 60604

If you have any legal questions, please call Terry Branigan, Associate Regional Counsel, at (312) 353-4737. If you have technical questions about this site, please call Giang-Van Nguyen, Remedial Project Manager at (312) 886-6726. Address all other questions to Deena Sheppard-Johnson, Enforcement Specialist at (312) 886-7048.

We appreciate your assistance and look forward to your prompt response to this Information Request.

Sincerely,



T. Leverett Nelson, Chief  
Section III, Multi-Media Branch I,  
Office of Regional Counsel

**Attachments:** 1. Site History  
2. Questions  
3. Instructions  
4. Definitions  
5. Confidential Business Information  
6. Legal Authority

**Appendix A: MAP**

**cc:** Giang-van Nguyen, SR-6J  
Deena Sheppard-Johnson, SR-6J  
Terry Branigan, C-14J

## **ATTACHMENT 1**

### **SITE HISTORY**

The Old LaSalle Dump Site is an approximately 6-acre undeveloped, inactive dump site located within the annual floodplain of the Illinois River in LaSalle County. The site is bordered on the north, south, and west by Huse Lake, a backwater lake of the Illinois River. To the east of the site is Highway 351. The City of LaSalle is located about 1,000 feet to the north of the site.

U.S. EPA has information that indicates that the site was used as a general refuse dump for the City of LaSalle from the early 1930's until approximately 1966. It is believed that a wide variety of residential and industrial wastes were dumped at the site.

When the dump closed, fill (including bricks, concrete slabs, scrap metal, wood, and other construction refuse) was dumped at the site. This made a highly permeable site cap. Since that time, the site has become fairly well vegetated with grasses and trees.

Prior to its use as a dump, the site was a wetland.



## ATTACHMENT 2

### INFORMATION REQUESTS

***As required by the Instructions, see Attachment 3, please respond to the following questions based upon all information and documents in the possession or control of LaSalle State Bank and its employees, agents, contractors, and attorneys.***

- 1. Please state the names and addresses of all persons consulted in the preparation of the answers to these questions.**
- 2. Please describe all documents consulted, examined, or referred to in the preparation of the answers to these questions, including for each document a brief description of its contents, date, author, addressee (if any), and document number (if any).**
- 3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any questions or who may be able to provide additional responsive documents, please state the names and addresses of such persons.**
- 4. Please state whether LaSalle State Bank currently holds or has ever held title to all or a portion of the "site property" (See Definitions, Appendix 4, ¶3). If the answer is yes, please state the period during which LaSalle State Bank held or has held title to the property and describe the capacity in which title was or has been held: (a) as Trustee under the Trust Agreement dated August 10, 1989, as it may have been amended from time to time, and known as the Duncan Realty Trust, (b) as Trustee under some other trust arrangement (hereinafter "other such trust arrangement"), or (c) in some other capacity (please specify).**
- 5. If LaSalle State Bank once held title to the site property, but no longer holds such title, please state the name(s) and address(es) of the person(s) and/or entity(ies) to whom title was transferred by LaSalle State Bank and the date of transfer.**

**If LaSalle State Bank currently holds title to the site property as Trustee under the Duncan Realty Trust or other such trust arrangement, please answer the following questions with respect to the trust:**

- 6. Please provide copies of all documents by which the trust was established and constituted, from the date the trust was first established until the present, including: all trust agreements; all amendments and attachments to, or modifications of the trust agreements; and all similar documents.**
- 7. Please state the names and addresses of all current and former trustees of the trust and state the period during which**

each served as trustee.

8. Please describe the services provided by LaSalle State Bank as trustee and describe any changes in these services over time.

9. Please state the name and address of each current beneficiary of the trust.

10. Under the trust, please explain:

- a. who holds legal title and who holds equitable title to property that is subject to the trust;
- b. the nature of the interest held by trust beneficiaries;
- c. who has the right to possess property that is subject to the trust;
- d. who has the right to manage or control property that is subject to the trust;
- e. who has the right to net proceeds from rental, sale, hypothecation or other disposition of property that is subject to the trust;
- f. how decisions about use or management of property that is subject to the trust are made; and
- g. how decisions relating to selling or renting the property that is subject to the trust are made.

11. Please state whether the trust is an Illinois "land trust" and state the basis for your conclusion. If the answer is no, please describe the nature of the trust.

12. Please describe in detail how the site property has been used under the trust during the period since the trust was established.

13. Please state the names and addresses of all individuals currently living having knowledge or information about the operation of a dump (see Definitions, Appendix 4) on the site property.

14. Please provide copies of all documents relating in any way to the operation of a dump on the site property.

15. Please list, describe, and state the value of all current

assets and liabilities of the trust. Provide copies of all current financial statements for the trust, including but not limited to those filed with the Internal Revenue Service.

16. Has LaSalle State Bank distributed, sold, or otherwise transferred title, possession or ownership of any property that was subject to the trust? If the answer is anything other than an unqualified "no," for each such transaction please:

- a. describe the nature and state the date of the transaction;
- b. describe the asset(s) involved;
- c. state the value of the asset(s) involved;
- d. state who authorized the distribution, sale or other transfer;
- e. state how the decision to make the distribution, sale or other transfer was made; and
- f. state the name of the recipient of such asset(s).

17. If any documents requested above have been transferred to others or have otherwise been disposed of, for each such document briefly describe its contents, date, author, addressee (if any), and document number (if any), state the name and address of the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.

## **ATTACHMENT 3**

### **INSTRUCTIONS**

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, state the names, addresses and telephone numbers of all persons and contributing sources of information.
4. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. In answering each question, state the names, addresses, and telephone numbers of all persons and contributing sources of information.
6. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
7. For any document submitted in response to a question, indicate the number of the question to which it responds.
8. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your employees, agents, contractors, and attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
9. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in responding to this

information request. Based on my review of relevant documents and discussions with individuals immediately responsible for providing relevant information and documents, I believe that the information provided is true, accurate and complete, to the best of my knowledge. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The certification must be signed by a responsible official of LaSalle State Bank. Please include the official's full title.

10. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Attachment 5.

## ATTACHMENT 4

### DEFINITIONS

1. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.

2. The terms **you**, **your**, and **Respondent** mean LaSalle State Bank, the addressee of this Information Request.

3. The terms **Old LaSalle Dump Site**, **site**, and **site property** mean the property south of the City of LaSalle, Illinois, that is bordered on the north, south, and west by Huse Lake and on the east by Highway 351, as generally depicted in the map in Appendix A. The site property is believed to be located within Parcel No. 18-22-202-000, in Section 22, Township 33 North, Range 1 East, LaSalle County, Illinois, within a subparcel described as follows:

59.80 acres, more or less, located in Section Twenty-Two (22) in Township Thirty-Three (33) North, Range One (1) East of the Third Principal Meridian, described as follows: Beginning at the Northwest corner of the East half (E-1/2) of the Northwest Quarter (NW-1/4) of Section Twenty-Two (22) aforesaid, thence East Twenty-Six (26) chains to the center of the road leading from LaSalle to Shippingsport; thence along center of said road South 3.5 degrees East as the needle pointed March 28, 1875, Twenty-Three and Seventy-Five Hundredths (23.75) chains; thence West Twenty-Four and Fifty-Two Hundredths (24.52) chains to the West line of said East Half (E-1/2) of said Northwest Quarter (NW-1/4); thence on said line to place of beginning; being 48.50 acres located in the East Half (E-1/2) of the Northwest Quarter (NW-1/4) of said Section Twenty-Two (22) and 11.30 acres located in the Northeast Quarter (NE-1/4) of said Section Twenty-Two (22) West of Shippingsport Road; all situated in LaSalle County, Illinois.

A dump, now known as the Old LaSalle Dump, was operated at the site.

4. The term **dump** means an accumulation of refuse and discarded materials and/or a place where such materials are dumped.

5. The term **Duncan Realty Trust** means the Duncan Realty Trust established pursuant to a trust agreement dated August 10, 1989, as it may have been amended or revised from time to time.

6. The term **person** as used herein includes any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.

7. The term **hazardous substance** is defined in Section 101(14) of CERCLA, and also includes any mixtures of such hazardous substances with any other substances, including petroleum products.

8. The term, **pollutant** or **contaminant** is defined in Section 101(33) of CERCLA, and also includes any mixtures of such pollutants and contaminants with any other substances.

9. The term **release** is defined in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.

10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R., Part 300 or 40 C.F.R., Part 260-280, in which case, the statutory or regulatory definitions shall apply.

## ATTACHMENT 5

### CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information that the U.S. EPA is requesting to be confidential. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 *et seq.* require that the U.S. EPA afford you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 *et seq.* (September 1, 1976); 43 Federal Register 4000 *et seq.* (December 18, 1985).) If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read these cited regulations carefully, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as confidential, you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential", and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;



2. The measures that you have taken to guard against disclosure of the information to others;

3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;

4. Whether the U.S. EPA or another federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future;

7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential", your comments will be available to the public without further notice to you.

## ATTACHMENT 6

### DESCRIPTION OF LEGAL AUTHORITY

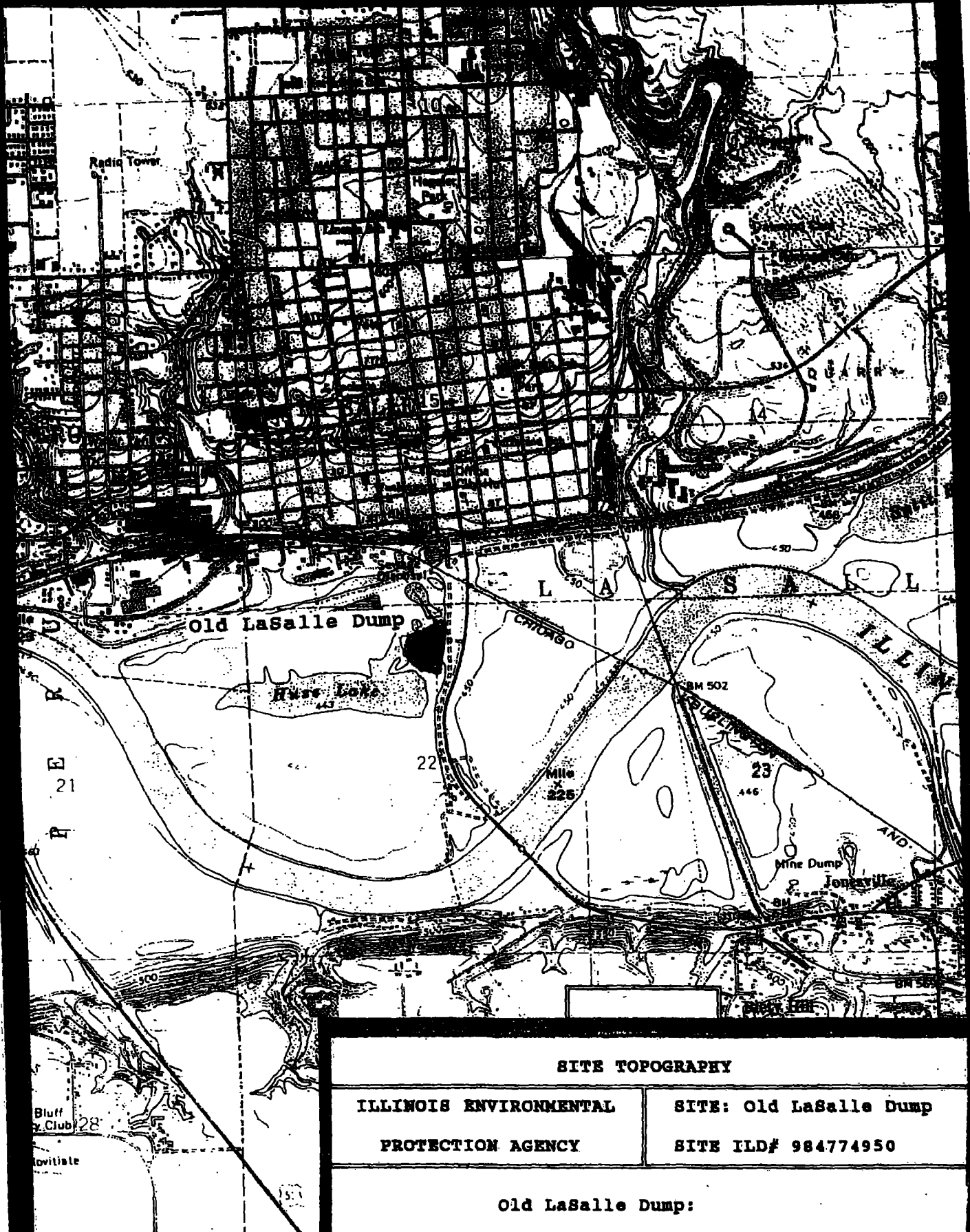
The federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (commonly referred to as CERCLA or Superfund) gives U.S. EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site, and, 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604 (e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. Section 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The U.S. EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

APPENDIX A  
SITE TOPOGRAPHY  
OLD LASALLE DUMP



SOURCE: USGS 7.5 Minute Topographic Series, LaSalle  
Quadrangle, 1979